



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: WAC 98 130 52383 Office: California Service Center

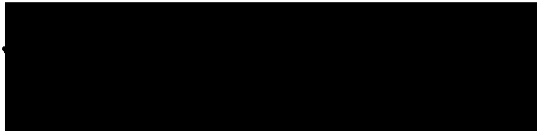
Date: APR 12 2000

IN RE: Petitioner:
Applicant:



Application: Application for Extension of Stay Pursuant to 8 C.F.R. 214.1(c)(1)

IN BEHALF OF APPLICANT:



Identifying information
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The petition for a nonimmigrant worker was filed as an application for an extension of the applicant's temporary stay in the United States as an E-2 Treaty Investor, pursuant to 8 C.F.R. 214.1(c)(1).

The petition was denied by the Director, California Service Center. In a subsequent motion to reopen, the director's decision was affirmed and the director incorrectly advised the applicant that the decision could be appealed to the Associate Commissioner for Examinations. The appeal will be rejected.

The regulation at 8 C.F.R. 214.1(c)(5) states:

Decision in Form I-129 or I-539 extension proceedings.
Where an applicant or petitioner demonstrates eligibility for a requested extension, it may be granted at the discretion of the Service. There is no appeal from the denial of an application for extension of stay filed on Form I-129 or I-539.

The regulation at 8 C.F.R. 103.5(a)(6) states:

Appeal to AAU from Service decision made as a result of a motion. A field office decision made as a result of a motion may be applied (sic) to the AAU only if the original decision was appealable to the AAU.

ORDER: The appeal is rejected.